REMARKS

I. Introduction

This Amendment is a full and timely response to the final Office Action of March 9, 2006. Claims 1-64 are pending in this application. Independent claims 1, 9, 19, 28, 36, 43, and 54 have been amended by the present response. In addition, a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) is concurrently filed with this response. A Request for Continued Examination, Petition for Three Month Extension of Time, and fee are also concurrently filed herewith.

II. ANTICIPATION REJECTION OF CLAIMS 1-3, 6-7, 28-32, 34, 36-40, 43, 46-49, 51-52, 54 AND 57-60

The Office Action rejected claims 1-3, 6-7, 28-32, 34, 36-40, 43, 46-49, 51-52, 54 and 57-60 under 35 U.S.C. § 102(b) as being anticipated by *Tanaka, et al.* (U.S. Patent No. 5,356,700) (hereinafter "*Tanaka*"). For at least the following reasons, this rejection is respectfully traversed.

Tanaka relates to an aromatic-polyamide fiber-polyester fiber-blended spun yarn fabric. *Tanaka* describes a fabric blend including meta-type aramid fibers and celluose fibers such as rayon treated with a flame retarder, Col. 2, lines 31-42, and Col. 2, lines 61-65, but *Tanaka* does not disclose the following elements of Applicants' claimed invention, particularly in amended claim 1 which includes, "inherently flame resistant fibers that are dyeable when the fibers are uncrystallized; and cellulosic fibers that are dyeable and contain a flame retardant compound." (Underlining Supplied).

Amended independent claims 9, 19, 28, 36, 43, and 54 include similar amended elements.

The differences between *Tanaka* and the Applicants' claimed invention in amended claim 1 are illustrated by the description in *Tanaka* of how the fabric can be colored in one of following three manners:

> "To provide a colored fabric, [1] a process in which a fabric is produced from a blend of meta type aramid fibers colored by a pigment with polyester fibers dyed in the form of a fiber mass;
>
> [2] a process in which a fabric is produced from blended spun yarns comprising meta-type aramid fibers colored with a pigment, polyester fibers dyed in the form of a fiber mass, and non-dyed cellulose fibers, and then the non-dyed cellose fibers in the fabric is dyed;
>
> or [3] a process in which a fabric is produced from blended spun yarns comprising non-colored meta-type aramid fibers, non-colored polyester fibers and optionally non-colored cellulose fibers, and then the fabric is subjected to customary dyeing procedures suitable for dyeing each type of fibers, is employed.
>
> (Col. 6, lines 7-21) (Numbers and breaks supplied).

These three processes, [1], [2], and [3], are conventional coloring processes for conventional flame resistant fabrics, which include the fabric described by *Tanaka*. Certain drawbacks to conventional coloring processes are described by the Applicants' Specification in Paragraphs [0006] and [0007]. The fabrics and processes described by *Tanaka* do not disclose the Applicants' claimed invention. Instead, the Applicants' claimed invention relates to a dyeable flame resistant fabric. In particular, amended claim 1 includes the amended elements, "inherently flame resistant fibers that are

dyeable when the fibers are uncrystallized; and cellulosic fibers that are dyeable and contain a flame retardant compound." (Underlining Supplied).

Process [1] of *Tanaka* relates to "a fabric ... produced from a blend of meta type aramid fibers colored by a pigment with polyester fibers dyed in the form of a fiber mass...." Col. 6, lines 7-10. The fabric described with process [1] does not include the elements "inherently flame resistant fibers that are dyeable when the fibers are uncrystallized" or "cellulosic fibers that are dyeable and contain a flame retardant compound." As described by Paragraph [0006] in Applicants' specification, producer colored or pigment dyeing of inherently flame resistant fibers can have several disadvantages including, expense, and difficulties in production. Furthermore, process [1] describes how to provide a colored fabric rather than providing a dyeable flame resistant fabric in accordance with the Applicants' claimed invention. This is apparent since the meta type aramid fibers described by *Tanaka* are colored by a pigment, before the fabric is constructed, rather than dyeing the entire fabric after the fabric has been constructed. Therefore, the fabric described with process [1] is significantly different than the Applicants' claimed invention.

Process [2] of Tanaka relates to "a fabric ... produced from blended spun yarns comprising meta-type aramid fibers colored with a pigment, polyester fibers dyed in the form of a fiber mass, and non-dyed cellulose fibers, and then the non-dyed cellose fibers in the fabric is dyed." Col. 6, lines 10-15. The fabric described with process [2] does not include the elements "inherently flame resistant fibers that are dyeable when the fibers are uncrystallized" or "cellulosic fibers that are dyeable and

contain a flame retardant compound." Similar to above and as described by Paragraph [0006] in Applicants' specification, producer colored or pigment dyeing of inherently flame resistant fibers can have several disadvantages including, expense, and difficulties in production. Furthermore, process [2] describes how to provide a colored fabric rather than providing a dyeable flame resistant fabric in accordance with the Applicants' claimed invention. This is apparent since the meta type aramid fibers described by *Tanaka* are colored by a pigment, the polyester fibers are dyed in the form of a fiber mass, and the non-dyed cellose fibers in the fabric are dyed, before the fabric is constructed, rather than dyeing the entire fabric after the fabric has been constructed. Therefore, the fabric described with process [2] is significantly different than the Applicants' claimed invention.

Process [3] of Tanaka relates to "a fabric is produced from blended spun yarns comprising non-colored meta-type aramid fibers, non-colored polyester fibers and optionally non-colored cellulose fibers, and then the fabric is subjected to customary dyeing procedures suitable for dyeing each type of fibers." Col. 6, lines 15-21. The fabric described with process [3] does not include the elements "inherently flame resistant fibers that are dyed when the fibers are uncrystallized" or "cellulosic fibers that are dyeable and contain a flame retardant compound." Furthermore, it is the customary-type or conventional dyeing procedures which can cause damage to the flame resistant fibers, particularly the flame resistance characteristics, or otherwise renders the flame resistant fibers susceptible to substantial laundry shrinkage. *See* Applicants' Specification, Paragraphs [0006] – [0007]. Therefore, the fabric

described with process [3] is significantly different than the Applicants' claimed invention.

Since *Tanaka* does not disclose or teach all of the elements of independent claims 1, 28, 36, 43, and 54, then these claims should be allowable over *Tanaka*. Further, dependent claims 2-3, 6-7, 29-32, 34, 37-40, 46-49, 51-52, and 57-60 are ultimately dependent from at least one of the independent claims 1, 28, 36, 43, and 54, for which arguments of patentability are provided above, and therefore, should also be allowable over *Tanaka*.

III. OBVIOUSNESS REJECTION OF CLAIMS 4, 9-14, 16-18, 33, 35, 41, 42, 44-45, 53, 55-56 AND 64

The Office Action rejected claims 4, 9-14, 16-18, 33, 35, 41, 42, 44-45, 53, 55-56 and 64 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent. No. 5,356,700 to *Tanaka* and further in view of U.S. Patent No. 5,306,312 *to Riggins, et al.* For at least the following reasons, this rejection is respectfully traversed.

Tanaka has previously been distinguished from Applicants' claimed invention for at least the above reasons. If claims 1-3, 6-7, 28-32, 34, 36-40, 43, 46-49, 51-52, 54 and 57-60 are allowable over *Tanaka*, then claims 4, 9-14, 16-18, 33, 35, 41, 42, 44-45, 53, 55-56 and 64 should also be allowable over the combination of cited references for at least the same reasons.

IV. DOUBLE PATENTING

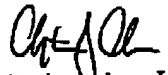
The Office Action rejected claims 1-64 under the judicially created doctrine of double patenting over claims 1-57 of U.S. Patent No. 6,626,964, claims 1-30 of U.S.

Patent Number 6,132,476, and claims 1-26 of U.S. Patent No. 6,818,024. The undersigned attorney for the Assignee submits the enclosed terminal disclaimer under 37 C.F.R. 1.321(c) to overcome the double patenting rejections. Claims 1-64 are now believed to be in condition for allowance.

CONCLUSION

Claims 1-64 are pending in the application. The Office Action rejections are believed to be traversed by the present amendment and response. Claims 1-64 should now be in condition for allowance. The Examiner is invited and encouraged to contact the undersigned attorney of record at (404) 815-6048 if such contact will facilitate a Notice of Allowance for claims 1-64. If any additional fees are due, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



Christopher J. Chan
Reg. No. 44,070
Attorney for Assignee

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KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street, N.E.
Atlanta, Georgia 30309-4530
Main: (404) 815-6500
Fax: (404) 815-6555